

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 21-0977V

ANDRES VISCONDE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 11, 2023

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for  
Petitioner.*

*Naseem Kourosh, U.S. Department of Justice, Washington, DC, for Respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On February 22, 2021, Andres Visconde filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) following receipt of an influenza (“flu”) vaccine on October 14, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 27, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On July 10, 2023, Respondent filed a proffer on award of compensation (“Proffer”). Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

**Pursuant to the terms stated in the attached Proffer, I award Petitioner a lump sum payment of \$82,525.00 (representing \$82,500.00 for pain and suffering, and \$25.00 for unreimbursable medical expenses) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

ANDRES VISCONDE,

Petitioner,

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

No. 21-977V (ECF)  
Chief Special Master Corcoran

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On February 22, 2021, Andres Visconde (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (2018) (the “Vaccine Act”). Petitioner alleged that he suffered a left-sided shoulder injury related to vaccine administration as a result of an influenza vaccine. ECF No. 1 (Petition) at 1.

On June 27, 2023, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. ECF No. 35. On the same date, the Chief Special Master issued a non-PDF order regarding damages discussions.

**I. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$82,525.00, consisting of \$82,500.00 in pain and suffering damages and \$25.00 in unreimbursed expenses, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through a lump

sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following: a lump sum payment of **\$82,525.00**, in the form of a check payable to petitioner.<sup>1</sup>

Respectfully submitted,

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/s/ Naseem Kourosh  
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DATED: July 10, 2023

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.